

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JOE ELTON MOSLEY, LLC,

Plaintiff

v.

WALMART, JIMMY WHITE,

Defendants

Case No.: 3:20-cv-00184-MMD-WGC

**Report & Recommendation of  
United States Magistrate Judge**

Re: ECF Nos. 1, 1-1

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Plaintiff has filed an application to proceed in forma pauperis (IFP) (ECF No. 1) and pro se complaint (ECF No. 1-1).

The court takes judicial notice of the following background facts: a criminal complaint was filed in the United States District Court for the District of Nevada against Joe Elton Mosley on January 30, 2020, for the charge of being a felon in possession of a firearm. The complaint alleges that Mosley was in a Walmart store in Sparks, Nevada, with a bandolier across his shoulders loaded with rounds of ammunition as well as firearms, while wearing a ballistic vest. Mosley was arrested. On February 6, 2020, he appeared before the undersigned for his initial appearance/arraignment and plea and pleaded not guilty to the charge, and is awaiting trial. Case No. 3:20 -cr-00004-LRH-CLB-1.

On March 3, 2020, Joe Elton Mosley filed an application to proceed IFP and civil complaint in case no. 3:20-cv-00146-MMD-CLB, in the United States District Court for the

1 District of Nevada, against Walmart and Walmart Security Manager Jimmy White. The IFP  
2 application is signed by Joe Elton Mosley with a UCC number 1-308 inserted above his name.

3 In that case, he indicates that the basis for jurisdiction is diversity even though he lists  
4 himself and the Defendants as both being citizens of Nevada. He used the form civil complaint  
5 and listed himself as an individual but crossed out that he is a "citizen" of Nevada, and wrote in  
6 that he is a "national" of Nevada. He simultaneously filled out the next line indicating corporate  
7 status, but crossed out that he is a "corporation" and wrote in that he is a "private entity"  
8 incorporated under the laws of the State of Minnesota, with a principal place of business in  
9 Nevada. Plaintiff alleges that he, along with his wife and children were shopping at Walmart and  
10 had guns drawn on them; his physical body was then kidnapped and his named was slandered in  
11 the news. He avers that he feels he was treated this way because he and his wife are an interracial  
12 couple. He seeks \$20,000,000 in damages.

13 Then, on March 23, 2020, another application to proceed IFP and civil complaint was  
14 filed by *Joe Elton Mosley, LLC*, in this case, 3:20-cv-00184-MMD-WGC.

15 The FIP application is signed by Joe Elton Mosley, with a printed name of Joe Elton  
16 Mosley, LLC, and again it has UCC 1-308 inserted above his name. In this IFP application  
17 where Plaintiff is asked to list his valuable property he states that he has a negotiable instrument  
18 in a fully authenticated birth certificate with a value of one billion dollars.

19 The complaint, like the one brought by Joe Elton Mosley in 3:20-cv-00146-MMD-CLB,  
20 is brought against Walmart and Jimmy White. He states that Joe Elton Mosley, LLC, is  
21 incorporated under the laws of the State of Nevada, with its principal place of business in  
22 Nevada. This complaint alleges that he, his wife and children had guns drawn on them for no  
23 apparent reason, and he was slandered in the news, incarcerated and humiliated while shopping

1 with his family. This complaint alleges that Jimmy White said he was a black man and that was  
2 the reason for calling the police on him and his family. Like the other complaint, he seeks \$20  
3 million in damages.

4 This action suffers from several defects which require dismissal.

5 First, it appears that Joe Elton Mosley is attempting to assert a claim both on behalf of  
6 himself as an individual, and on behalf of himself, as a limited liability company.

7 Plaintiff's IFP application and complaint contain multiple indicia of an adherence to the  
8 "sovereign citizen" anti-government movement. As one court described it:

9 Though the precise contours of their philosophy differ among the  
10 various groups, almost all antigovernment movements adhere to a  
11 theory of a 'sovereign' citizen. Essentially, they believe that our  
12 nation is made up of two types of people: those who are sovereign  
13 citizens by virtue of Article IV of the Constitution, and those who  
14 are 'corporate' or '14th Amendment' citizens by virtue of the  
15 ratifications of the 14th Amendment. The arguments put forth by  
16 these groups are generally incoherent, legally, and vary greatly  
17 among different groups and different speakers within those groups.  
18 They all rely on snippets of 19th Century court opinions taken out  
19 of context, definitions from obsolete legal dictionaries and  
20 treatises, and misplaced interpretations of original intent. One of  
21 the more cogent [—] in the sense that it is readily followed—  
22 arguments is that there were no United States citizens prior to the  
23 ratification of the 14th Amendment. All Americans were merely  
citizens of their own state and owed no allegiance to the federal  
government. As a result of that amendment, however, Congress  
created a new type of citizen—one who now enjoyed privileges  
conferred by the federal government and in turn answered to that  
government.

One of the ramifications of this belief is the dependent belief that,  
unless one specifically renounces his federal citizenship, he is not  
the type of citizen originally contemplated by the Constitution.  
And, in their view, the Constitution requires all federal office  
holders to be the original or sovereign type of citizen, a state  
citizen rather than a United States citizen. As a result, all federal  
officers are holding office illegally and their laws and rules are  
thus constitutionally suspect.

1 *United States v. Mitchell*, 405 F.Supp.2d 602, 605 (D.Md. 2005) (internal citation and quotation  
2 marks omitted).

3 Other courts have described a similar theory based on the belief that passing the  
4 Fourteenth Amendment led to fictitious entities:

5       Supposedly, prior to the passage of the Fourteenth amendment,  
6       there were no U.S. citizens; instead, people were citizens only of  
7       their individual states. Even after the passage of the Fourteenth  
8       Amendment, U.S. citizenship remains optional. The federal  
9       government, however, has tricked the populace into becoming U.S.  
10      citizens by entering into 'contracts' embodied in such documents as  
11      birth certificates and social security cards. With these contracts, an  
12      individual unwittingly creates a fictitious entity (*i.e.*, the U.S.  
13      citizen) that represents, but is separate from, the real person.  
14      Through these contracts, individuals also unknowingly pledge  
15      themselves and their property, through their newly created  
16      fictitious entities, as security for the national debt in exchange for  
17      the benefits of citizenship.

18 *Bryant v. Wash. Mut. Bank*, 524 F.Supp.2d 753, 758 (W.D. Va. 2007).

19 "The attempt to divide oneself into two separate entities ... is a legal fiction and has been  
20 struck down consistently in courts and around the country. *See Santiago v. Century 21/PHH*  
21 *Mortg.*, 2013 WL 1281776, at \*5 (N.D.Ala. Mar. 27, 2013) (citing cases).

22       Plaintiff's filing makes it evidence that she adheres to the same type of "sovereign  
23 citizen" theories that have been flatly rejected by this nation's courts. This court, like others  
across the country, concludes that "'sovereign citizens,' like all citizens of the United States, are  
subject to the laws of the jurisdiction in which they reside." *Paul v. New York*, 2013 WL  
5973138, at \*3 (E.D.N.Y. Nov. 5, 2013) (quotation marks and citations omitted). "[T]he  
conspiracy and legal revisionist theories of 'sovereign citizens' are not established law in this  
court or anywhere in this country's valid legal system." *Id.* (citation and quotation marks  
omitted); *see also United States v. James*, 328 F.3d 953, 954 (7th Cir. 2003) ("Laws of the  
United States apply to all persons within its borders."); *United States v. Benabe*, 654 F.3d 753,

1 767 (7th Cir. 2011) ("Regardless of an individual's claimed status of descent, be it as a 'sovereign  
2 citizen,' a 'secured-party creditor,' or a 'flesh-and-blood human being,' that person is not beyond  
3 the jurisdiction of the courts. These theories should be rejected summarily, however they are  
4 presented.").

5 Moreover, a lawsuit must be brought by the real party in interest, meaning that the party  
6 bringing the suit is legally entitled to seek the relief requested. Fed. R. Civ. P. 17(a)(1); *U-Haul*  
7 *Int'l, Inc. v. Jartran, Inc.*, 793 F.2d 1034, 1038 (9th Cir. 1986) ""[Rule 17] allows a federal court  
8 to entertain a suit at the instance of any party to whom the relevant substantive law grants a cause  
9 of action." ). This complaint states that Joe Elton Mosley, LLC is incorporated under the State of  
10 Nevada; however, a search of the Nevada Secretary of State's webpage reveals that there is no  
11 Joe Elton Mosley, LLC registered in the State of Nevada. In his other case, he states that he is an  
12 individual, but a "national" of the State of Nevada, incorporated under the laws of the State of  
13 Minnesota. The court has also conducted a search of the Minnesota Secretary of State's website,  
14 and there is no Joe Elton Mosley, LLC registered in the State of Minnesota. The court takes  
15 judicial notice of these facts. Therefore, Joe Elton Mosley, LLC does not have a legal right to  
16 sue.

17 Next, to the extent Joe Elton Mosley can pursue an action as an individual, this case is  
18 duplicative of the previously filed action in case 3:20-cv-00184-MMD-WGC. *See Adams v. Cal.*  
19 *Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007), *overruled on other grounds by Taylor*  
20 *v. Sturgell*, 553 U.S. 880 (2008).

21 Finally, a corporate defendant cannot proceed pro se in this court and must be represented  
22 by counsel. *Rowland v. California Men's Colony*, 506 U.S. 194, 202 (1993); *In re American*  
23 *Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994) (per curiam). Even if Joe Elton Mosley, LLC, were

1 a proper party in this action, Joe Elton Mosley the individual would not be able to represent the  
2 LLC as the court takes judicial notice of the fact that he is not an attorney licensed to practice in  
3 the State.

4 For all of these reasons, it is recommended that this action be dismissed with prejudice  
5 and the IFP application be denied as moot.

6 **RECOMMENDATION**

7 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING**  
8 **THIS ACTION WITH PREJUDICE** and **DENYING** the IFP application as moot.

9 The Plaintiff should be aware of the following:

10 1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to  
11 this Report and Recommendation within fourteen days of being served with a copy of the Report  
12 and Recommendation. These objections should be titled “Objections to Magistrate Judge’s  
13 Report and Recommendation” and should be accompanied by points and authorities for  
14 consideration by the district judge.

15 2. That this Report and Recommendation is not an appealable order and that any notice of  
16 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed  
17 until entry of judgment by the district court.

18  
19 Dated: March 26, 2020

20 

21 William G. Cobb  
22 United States Magistrate Judge  
23